

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alfredo Gonzalez	Team: Squad #3	CCRB Case #: 201504961	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/29/2015 7:55 PM	Location of Incident: § 87(2)(b) ; 30th Precinct stationhouse § 87(2)(b)	Precinct: 13	18 Mo. SOL 10/29/2016	EO SOL 10/29/2016	
Date/Time CV Reported Tue, 06/16/2015 2:24 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/17/2015 2:24 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Carl Bennett	04569	929704	030 DET
2. DT3 Allen Roman	04686	923067	030 DET
3. POM Joel Polanco	30441	957044	030 PCT
4. DT3 Carlos Pagan	2218	943642	030 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Wilder Sanchez	07641	894339	030 DET
2. LCD Michael Lee	00000	897857	023 DET
3. SGT David Rodgers	02827	929058	032 DET

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Allen Roman	Force: At § 87(2)(b) in Manhattan, Detective Allen Roman pointed his gun at § 87(2)(b)	§ 87(2)(b)
B.DT3 Carlos Pagan	Force: At the 30th Precinct stationhouse, Detective Carlos Pagan used physical force against § 87(2)(b)	§ 87(2)(b)
C.DT3 Carl Bennett	Force: At § 87(2)(b) in Manhattan, Detective Carl Bennett used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Joel Polanco	Force: At § 87(2)(b) in Manhattan, Police Officer Joel Polanco used a chokehold against § 87(2)(b)	§ 87(2)(b)

Case Summary

This complaint was filed with IAB on June 8, 2015, by Sgt. Devon Hudon, who had received a letter from the § 87(2)(b) informing him that § 87(2)(b) Police had witnessed a plainclothes officer assault a handcuffed defendant. The CCRB received this case, under log number 2015-16521, on June 17, 2015.

On April 29, 2015, at approximately 12 p.m., § 87(2)(b) was arrested at his home – located at § 87(2)(b) Manhattan – by Det. Carl Bennett, Det. Allen Roman, Det. Carlos Pagan, Det. Wilder Sanchez, Sgt. David Rodgers, and Lt. Michael Lee. § 87(2)(b) fled up the fire escape and onto the roof when the officers arrived. Det. Roman reached the roof first, pointed his gun at § 87(2)(b) and commanded him to get down (**Allegation A**). § 87(2)(b) allegedly did not comply, but additional officers soon arrived and they managed to take him into custody. § 87(2)(b) was transported to the 30th Precinct stationhouse and placed in the Detective Bureau’s holding cell on the second floor. § 87(2)(b) was placed into the cell without being searched, so he attempted to use his cellphone. Upon noticing this, several officers entered the cell and attempted to take his cellphone away. During the struggle, Det. Pagan allegedly attempted to punch § 87(2)(b) in the face, but he only managed to graze his chin (**Allegation B**). Afterward, ESU was contacted in regards to § 87(2)(b) and he was restrained and transported to § 87(2)(b) via ambulance. After being discharged from § 87(2)(b), § 87(2)(b) was placed inside an RMP in the parking lot, after which § 87(2)(b) began kicking at the RMP’s door. ESU and an ambulance were requested so that § 87(2)(b) could be transported to § 87(2)(b) for a psychiatric evaluation. When ESU arrived, § 87(2)(b) was placed inside the ambulance on a gurney and he was accompanied by Det. Bennett and PO Joel Polanco. § 87(2)(b) was rear-handcuffed, in leg shackles, and buckled into to the gurney with the gurney’s straps during the transport. Upon arrival at § 87(2)(b), and as § 87(2)(b) was being escorted into the hospital, Det. Bennett punched § 87(2)(b) in the face (**Allegation C**). Inside of § 87(2)(b), § 87(2)(b) managed to remove the gurney’s straps and stood up, after which PO Polanco approached him from behind, placed him in a chokehold, and took him to the floor (**Allegation D**). § 87(2)(b) was charged with § 87(2)(b).

This case went past the 90-day benchmark because it was placed on DA hold. The CCRB received confirmation that the DA’s hold was removed on July 19, 2016.

IAB conducted an investigation into this incident, substantiated the physical force allegation against Det. Bennett, and recommended charges and specifications for him.

IAB provided the CCRB with two video clips from § 87(2)(b). The first clip shows § 87(2)(b) being removed from the ambulance in a gurney, while rear-handcuffed, during which Det. Bennett appears to punch § 87(2)(b) in his face. The second clip shows § 87(2)(b) maneuvering himself off the gurney and slowly walking towards something off screen. PO Polanco then comes behind him, puts his arm around his neck, and takes him to the ground.



1. 201504961_20160819_1623_DM.mp4



2. 201504961_20160819_1626_DM.mp4

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation due to § 87(2)(b)'s arrest.
- A Notice of Claim was submitted on § 87(2)(b)'s behalf by his lawyer, § 87(2)(b). The claim alleges that § 87(2)(b) was struck "about the head and face" while on a gurney at § 87(2)(b). The claim also alleges that § 87(2)(b) was issued a ticket for riding his bicycle on the sidewalk after being "beaten" while at the 45th Precinct stationhouse. The claim requests a monetary sum in "excess of the jurisdictional limitations of all courts of limited jurisdiction in the State of New York in and for adjustment and settlement of his claim against" the City of New York (BR 01).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (BR 03).
- Det. Bennett has been a member of the NYPD for 14 years. He has been the subject of 26 allegations stemming from 11 cases. Thirteen allegations of which he has been a subject were force allegations; however, none of them were substantiated. In CCRB 200903652, a retaliatory summons allegation was substantiated, for which he received instructions.
- Det. Roman has been a member of the NYPD for 17 years. This is his first CCRB complaint.
- PO Polanco has been a member of the NYPD for 2 years. This is his first CCRB complaint.
- Det. Pagan has been a member of the NYPD for nine years. He has been the subject of five allegations stemming from five cases, with no substantiated allegations. § 87(2)(g)
[REDACTED]

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) described the officer that allegedly attempted to punch him inside the cell as a Hispanic male that was approximately 5'9" tall, with a chubby build, and in a suit. § 87(2)(b) could not estimate the officer's age. Based on the officers' interviews, there were only two Hispanic officers that were present during § 87(2)(b)'s arrest, Det. Pagan and Det. Sanchez. Det. Sanchez is § 87(2)(b) old, 5'5" tall, 170 pounds, and with black hair. Det. Pagan is § 87(2)(b) old, 5'9" tall, 195 pounds, and with black hair. Det. Pagan's physical characteristics most closely match those provided by § 87(2)(b) § 87(2)(g)
[REDACTED]
- Although § 87(2)(b) did not allege that Det. Roman pointed his firearm at him on the roof of § 87(2)(b), Det. Roman acknowledged doing so during his interview.
§ 87(2)(g)
[REDACTED]

Allegations Not Pleaded

- § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation A – Force: At § 87(2)(b) [REDACTED] in Manhattan, Det. Allen Roman pointed his gun at § 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED] stated that on the date of the incident, detectives from the 30th Precinct detective squad went to his home, located at § 87(2)(b) [REDACTED] in Manhattan. Upon realizing that officers were there to arrest him, § 87(2)(b) [REDACTED] fled by going up the fire escape and onto the roof. On the roof, § 87(2)(b) [REDACTED] was allegedly stopped by Det. Roman and Lt. Lee. § 87(2)(b) [REDACTED] was then commanded to get on the floor, which he did without any issues, and was then handcuffed. § 87(2)(b) [REDACTED] did not allege that an officer pointed his gun at him when he was arrested (BR 04).

Det. Roman testified that he, along with Det. Sanchez, Sgt. Rodgers, Det. Bennett, Det. Pagan, and Lt. Lee, went to arrest § 87(2)(b) [REDACTED] after his mother came into the 30th Precinct stationhouse and informed them that her son was in her apartment and that she wanted them to pick him up. Det. Roman explained that § 87(2)(b) [REDACTED] was known in the 30th Precinct as a “very bad guy” and was a suspect in two shootings and was wanted for “pistol whipping” his girlfriend. Upon arriving at the location, Det. Roman, Det. Sanchez, Sgt. Rodgers, and Lt. Lee went to the apartment while Det. Bennett and Det. Pagan guarded the rear of the building. When the officers knocked on the apartment’s door, Det. Roman heard a female state, “Hurry up.” Soon after, he heard Det. Pagan yell, “Get down.” Det. Roman realized that § 87(2)(b) [REDACTED] was trying to escape to the roof, so he headed up there and encountered § 87(2)(b) [REDACTED] coming over the building’s railing. Det. Roman withdrew his firearm, pointed it at § 87(2)(b) [REDACTED] and commanded him to get down. At this point, Det. Roman was alone with § 87(2)(b) [REDACTED]. § 87(2)(b) [REDACTED] did not comply, smirked, and walked towards Det. Roman. Det. Roman interpreted § 87(2)(b) [REDACTED]’s action as an indication that § 87(2)(b) [REDACTED] believed that Det. Roman would not shoot him. A few seconds later, Lt. Lee and Sgt. Rodgers arrived and commanded § 87(2)(b) [REDACTED] to get on the floor, to which he complied. § 87(2)(b) [REDACTED] was then handcuffed and transported to the 30th Precinct stationhouse (BR 05). Det. Bennett, Det. Pagan, and Det. Sanchez did not observe Det. Roman point his gun at § 87(2)(b) [REDACTED] as they arrived after § 87(2)(b) [REDACTED] was in the process of being handcuffed or already handcuffed; however, they corroborated the details immediately preceding Det. Roman’s interaction with § 87(2)(b) [REDACTED] on the roof (BR 06-08).

An officer can draw his firearm and point it at another individual when he has a reasonable fear for his or another’s personal safety. While the standard is ultimately an objective one, due reference should be given to the judgment of the officer at the time and scene of the incident. PD v. Gliner, OATH Index No. 955/00 (BR 09).

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

Allegation B – Force: At the 30th Precinct stationhouse, Detective Carlos Pagan used physical force against § 87(2)(b)

In § 87(2)(b)'s CCRB statement, he stated that he was placed inside a cell, by himself, without being searched. § 87(2)(b) explained that he was taken to a cell upstairs that was meant for questioning suspects of homicide or violent crimes. § 87(2)(b) had his cell phone in his pocket at the time, so he attempted to make a phone call. When the officers observed him with a phone, they commanded him to give it to them, but § 87(2)(b) refused and then attempted to destroy the phone. Approximately six officers entered the cell and “jumped” § 87(2)(b) during which Det. Pagan allegedly attempted to punch § 87(2)(b) in the face but only managed to “graze” his chin (BR 05). § 87(2)(b)'s IAB statement was similar to his CCRB statement, though he did not allege that an officer attempted to punch him at the 30th Precinct stationhouse (BR 10).

Det. Pagan testified that § 87(2)(b) was placed by himself in a cell on the second floor of the stationhouse after items were removed from his pockets. Afterward, § 87(2)(b) requested to make a phone call with his cell phone, to which Det. Pagan agreed because he wanted to keep § 87(2)(b) calm. Once § 87(2)(b) had his cellphone, he immediately began to break it apart and attempted to swallow the SIM card. Det. Pagan, Det. Sanchez, and Det. Bennett entered the cell immediately to prevent § 87(2)(b) from destroying his phone and SIM card. § 87(2)(b) was commanded to put his hands behind his back, but he refused and resisted by moving his body and by refusing to give up his arms. Det. Pagan denied that he, or any other officer, punched § 87(2)(b) and he stated that the only force used against § 87(2)(b) consisted of grabbing him by the hands and pulling them together to handcuff him. After being handcuffed, § 87(2)(b) began behaving erratically, jumped on the bench inside the cell, and spat on desks and officers. ESU was called, and upon their arrival, they contained § 87(2)(b) and placed him in an ambulance (BR 06).

Det. Bennett corroborated that the struggle with § 87(2)(b) was sparked over his cellphone, but he stated that he did not participate in it and only observed it after the commotion brought his attention to it. He observed § 87(2)(b) struggling with Det. Sanchez and Lt. Lee over a cell phone. The officers managed to get the cell phone away from § 87(2)(b) and he was rear-cuffed again. Det. Bennett did not recall whether § 87(2)(b) physically resisted or if he attempted to strike the officers. Det. Bennett denied that he observed any officer punch § 87(2)(b) during the struggle for his phone (BR 07). Det. Roman corroborated that the struggle inside the cell was due to a cellphone, and he stated that Sgt. Rodgers, along with Det. Sanchez and Det. Pagan, entered the cell and forcefully removed the cell phone from § 87(2)(b) who had taken the SIM card out of his phone and was attempting to eat it (BR 05). Det. Sanchez corroborated that § 87(2)(b) attempted to eat his phone's SIM card and he testified that Sgt.

Rodgers, Lt. Lee, Det. Pagan, and himself entered the cell to prevent § 87(2)(b) from doing so. § 87(2)(b) was taken to the ground by the officers, but Det. Sanchez was unable to see how it occurred. Det. Sanchez denied that he, or any other officer, punched § 87(2)(b) while trying to restrain him (BR 08).

Officers must use the minimum amount of force necessary to take into custody a violent or resisting individual. NYPD Patrol Guide, Section 203-11 (BR 16).

§ 87(2)(g)

Allegation C – Force: At § 87(2)(b), Detective Carl Bennett used physical force against § 87(2)(b)

In his CCRB statement, § 87(2)(b) stated that during the journey to § 87(2)(b), he was agitated, upset, and in tears. § 87(2)(b) acknowledged that he was moving around inside the ambulance, and initially stated that he was “acting crazy,” but he later clarified that he was only moving around in an attempt to get more comfortable. § 87(2)(b) and Det. Bennett “were going back and forth,” but he could only recall that he called Det. Bennett “a pussy” and told him that he would “beat him up.” Det. Bennett responded by telling § 87(2)(b) that he would punch him in the face. As they arrived to § 87(2)(b), and as § 87(2)(b) was being removed from the ambulance, he and Det. Bennett continued arguing. Immediately after, and without warning, Det. Bennett punched § 87(2)(b) in the nose and upper lip. § 87(2)(b) emphasized that he was still rear-handcuffed and in leg shackles when he was punched. § 87(2)(b) stated that he was bleeding from his nose due to Det. Bennett’s punch. § 87(2)(b) denied that he attempted to kick at the officers during his transport (BR 04). In § 87(2)(b)’s IAB statement, he did not mention anything regarding his behavior inside the ambulance, only that he asked the officers why he was being taken to § 87(2)(b). Upon arrival at the hospital, § 87(2)(b) continued talking to Det. Bennett, during which spit spewed from his mouth. § 87(2)(b) believed that his spit “must have gotten” on Det. Bennett because afterward, Det. Bennett “swung” at § 87(2)(b) (BR 10).

EMT § 87(2)(b) accompanied § 87(2)(b) Det. Bennett, and PO Polanco inside the ambulance. During the journey, § 87(2)(b) began complaining that his handcuffs were too tight and then became increasingly agitated, moved around, and kicked at the doors. The officers tried to calm him down, but § 87(2)(b) was unresponsive. § 87(2)(b) managed to maneuver himself into a position that allowed him to undue the straps over his lower chest and he slipped his legs out of the straps that were at shin level. § 87(2)(b) then attempted to open the ambulance’s door as it was moving. At that point, EMT § 87(2)(b) Det. Bennett, and PO Polanco

grabbed § 87(2)(b) placed him back onto the stretcher, and placed the straps over him again. Afterward, § 87(2)(b) managed to open a compartment behind him that contained saline bottles and gauzes, and he began grabbing them and throwing them on the floor as they were arriving at § 87(2)(b). EMT § 87(2)(b) also recalled that § 87(2)(b) made some statements about shooting “up some people in the heights,” and about shooting “up the block.” § 87(2)(b) also made statements indicating that he wanted to fight Det. Bennett. As they arrived, § 87(2)(b) continued to be combative, he managed to take some of his straps off, and he was sitting upright as he was taken out of the ambulance. EMT § 87(2)(b) was positioned towards § 87(2)(b)'s feet and EMT § 87(2)(b) was near § 87(2)(b)'s head as they were wheeling him towards the hospital's entrance. As they were exiting the ambulance, EMT § 87(2)(b) heard Det. Bennett state, “Why are you acting like this?” EMT § 87(2)(b)'s line of sight was towards the entrance and towards the ground, so he was not directly looking at § 87(2)(b) as they were wheeling him into the hospital. EMT § 87(2)(b) recalled hearing a spitting sound emanating from § 87(2)(b). Immediately after, Det. Bennett stated, “You’re spitting at me.” EMT § 87(2)(b) then turned towards § 87(2)(b) and saw Det. Bennett on top of § 87(2)(b). EMT § 87(2)(b) did not see Det. Bennett make contact with § 87(2)(b)'s face and he was unable to see where Det. Bennett's hands were placed as he was on top of § 87(2)(b). When Det. Bennett stepped away from § 87(2)(b) and as they were wheeling him into the triage area, EMT § 87(2)(b) observed that § 87(2)(b) was bleeding from his nose or mouth (BR 11). EMT § 87(2)(b) was driving the ambulance and did not witness what occurred in the back. EMT § 87(2)(b) did not see the altercation between § 87(2)(b) and Det. Bennett because he was towards the front of the gurney and pulling it. After the altercation, however, he noticed that § 87(2)(b) was bleeding from the mouth. EMT § 87(2)(b) could not recall whether Det. Bennett or § 87(2)(b) made any statements prior to the altercation. EMT § 87(2)(b) did not hear any spitting sounds, nor did he hear Det. Bennett make any statements in regards to being spat on (BR 12).

§ 87(2)(b) provided a statement about the incident to IAB wherein he stated that he observed when § 87(2)(b) was removed from the ambulance. § 87(2)(b) observed that § 87(2)(b) was rear-handcuffed and that he was very aggressive towards Det. Bennett and Det. Roman, “fighting and spitting” at them. § 87(2)(b) clarified that he did not actually witness § 87(2)(b) spit on Det. Bennett, but observed Det. Bennett wipe spit off his face after § 87(2)(b) was taken into the hospital. § 87(2)(b) also observed Det. Bennett over § 87(2)(b) either punching him or pushing him down, after which § 87(2)(b) was bleeding from his mouth (BR 19).

Det. Bennett testified that once the ambulance got onto the Franklin D. Roosevelt East River Drive, § 87(2)(b) became agitated and began to open storage containers, taking items out, and throwing them on the floor. § 87(2)(b) was still rear-handcuffed and restrained at the time. § 87(2)(b) also managed to unbuckle the strap near his chest and attempted to open the rear door of the ambulance with his foot while the ambulance was in motion. Det. Bennett commanded § 87(2)(b) to “knock it off” and then went to hold down his legs. Det. Bennett went to grab § 87(2)(b)'s legs a second time as he continued to attempt to open the rear door, but § 87(2)(b) raised his legs with such force that he kicked Det. Bennett's left hand, resulting in Det. Bennett sustaining a torn ligament. As they arrived to § 87(2)(b), § 87(2)(b) continued to be combative and was moving around trying to unbuckle himself from the gurney. The officers were attempting to restrain him as they were wheeling him into the hospital, at which point § 87(2)(b) stated to Det. Bennett, “Yo, I’m going to wild out.” § 87(2)(b) then spat at Det. Bennett, striking him on his right cheek. Det. Bennett became upset and asked § 87(2)(b) why

he had spat on him, to which § 87(2)(b) replied, “Fuck you.” § 87(2)(b) then hawked as if he were about to spit a second time, so Det. Bennett hit him in his mouth with his right hand to keep him from spitting at him. Det. Bennett denied that he hit him with a closed fist, and he could not recall whether he struck him with the back of his right hand or the front. Immediately after, § 87(2)(b) was wheeled into the hospital. Det. Bennett denied observing any injuries on § 87(2)(b) and § 87(2)(b) did not complain of any after he struck him (BR 07).

PO Polanco corroborated that § 87(2)(b) was combative on the way to § 87(2)(b) and that he was kicking to loosen the straps, but his kicks were not aimed at anyone specifically. PO Polanco stated that the straps were not very effective in containing § 87(2)(b) and he was able to maneuver himself in a manner that allowed him to unbuckle the strap over his chest, which then allowed him to try to open the ambulance’s door. § 87(2)(b) made three attempts at reaching for the door, but PO Polanco, EMT § 87(2)(b) and Det. Bennett were able to grab § 87(2)(b) and place him onto the stretcher again. PO Polanco also corroborated that § 87(2)(b) grabbed equipment and threw it on the floor. Upon arriving at § 87(2)(b), § 87(2)(b) continued to behave belligerently. PO Polanco stated that he did not see what occurred immediately after they had all exited the ambulance because he was looking at the floor and at the ambulance, so § 87(2)(b) and Det. Bennett were not in his line of sight, but he was aware that an altercation had taken place between them. PO Polanco recalled that before the altercation took place, Det. Bennett stated, “Don’t spit on me.” PO Polanco did not witness § 87(2)(b) spit on Det. Bennett, nor did he hear any sounds indicative of spitting. PO Polanco believed that the altercation occurred immediately after Det. Bennett’s comment. PO Polanco acknowledged that he had seen a video of the altercation between Det. Bennett and § 87(2)(b) but he did not have any independent recollection of it, nor did he personally witness what actually occurred. PO Polanco denied seeing Det. Bennett on top of § 87(2)(b) so he could not comment on where Det. Bennett placed his hands. Immediately after, § 87(2)(b) was wheeled into the triage area of the hospital. PO Polanco did not observe any injuries on § 87(2)(b) as they entered the triage area (BR 13). Det. Roman denied that he observed Det. Bennett strike § 87(2)(b) in the face and only observed Det. Bennett with his hands over § 87(2)(b)’s upper chest, which he interpreted as an attempt to restrain § 87(2)(b). Soon after, Det. Roman went to Det. Bennett and got in between him and § 87(2)(b). When asked why he had felt the need to get between them, Det. Roman stated that it was an “involuntary” reaction (BR 05). In Det. Roman’s IAB statement, he stated that he did not know where Det. Bennett’s hands were placed when he was over § 87(2)(b). He also noted that Det. Bennett seemed angry at the time and stated, “You spit on me” (BR 20).

The video of § 87(2)(b) ambulance bay captures § 87(2)(b) being removed from the ambulance and being wheeled into § 87(2)(b) emergency department. When § 87(2)(b) is removed from the ambulance he is sitting up on a gurney, has his hands behind his back, and there is an orange strap above his knees. As he is being wheeled towards the hospital’s entrance by the EMTs, it seems that § 87(2)(b) and Det. Bennett are exchanging words. Det. Bennett then punches § 87(2)(b)’s face with his right hand, which prompts § 87(2)(b) to move back. Immediately after, Det. Bennett seems to grab § 87(2)(b)’s face with his left hand and the back of his neck with his right hand, and then he pushes him down so that his head and shoulders hang over the gurney. Det. Bennett pushes § 87(2)(b) down for approximately two seconds; however, because of Det. Bennett’s and § 87(2)(b)’s body placements, the video does not capture where Det. Bennett’s hands are placed. When Det. Bennett pushes down on § 87(2)(b) Det. Roman – who is on the other side of § 87(2)(b) – reaches across § 87(2)(b)

and grabs Det. Bennett's left arm. Det. Roman then goes around to Det. Bennett and grabs his right arm as if to keep him away from § 87(2)(b) as he is being wheeled into the hospital (BR 14).

Det. Bennett's LOD report noted that he suffered a § 87(2)(b) when he attempted to restrain an EDP prisoner from jumping off the gurney. The report also noted that the prisoner kicked and spat on his face, § 87(2)(b) (BR 15).

§ 87(2)(b)'s Prehospital Care Report, completed by EMT § 87(2)(b) did not note any visible injuries to § 87(2)(b) prior to his transportation to § 87(2)(b) (Privileged Document - § 87(2)(b)'s Prehospital Care Report). § 87(2)(b)'s medical records confirmed that he was bleeding from his nose and that he had a cut to the right side of his top lip after being assessed in the emergency department (See Privileged Documents – § 87(2)(b)'s Medical Records).

Officers must use the minimum amount of force necessary to take into custody a violent or resisting individual. NYPD Patrol Guide, Section 203-11 (BR 16).

§ 87(2)(b), § 87(2)(g)

Allegation D – Force: At § 87(2)(b), Police Officer Joel Polanco used a chokehold against § 87(2)(b)

§ 87(2)(b) stated that after he entered the hospital, he was able to get up from the stretcher on his own, while rear-handcuffed and leg-shackled. He then stated to Det. Bennett, “Yo, take them off so we can fight as men, since you punched me while cuffed.” Immediately after, PO Polanco came from behind, put his arm around § 87(2)(b) started “choking” him, and then put him on the floor. When asked to be more specific about how he was choked and for how long, § 87(2)(b) indicated that he could not recall the details because he was immediately given a

tranquilizer that put him to sleep and he believed the tranquilizer had affected his recollection of the incident (BR 04). § 87(2)(b)'s IAB statement was generally consistent with his CCRB statement (BR 10).

EMT § 87(2)(b) testified that § 87(2)(b) unbuckled the last strap on the gurney and got up inside the triage area. § 87(2)(b) stated that he wanted the handcuffs removed so he could fight Det. Bennett "one-on-one." § 87(2)(b) was directing his comments to Det. Bennett, who was outside and pacing back and forth. Afterward, PO Polanco came from behind and took him down. § 87(2)(b) was put onto a hospital bed and then sedated (BR 11). EMT § 87(2)(b)'s statement was generally consistent with EMT § 87(2)(b)'s (BR 12).

PO Polanco testified that § 87(2)(b) managed to unbuckle the strap over his chest inside the triage area. Afterward, he got off the stretcher and started yelling, cursing, and asking that they remove his handcuffs so that he could fight Det. Bennett "one-on-one." § 87(2)(b) was directing several of his comments to Det. Bennett. At that point, PO Polanco came from behind, grabbed § 87(2)(b)'s handcuffs, put his arm around his chest, and brought him to the ground. PO Polanco denied that his arm went around § 87(2)(b)'s neck. Det. Roman and some EMTs assisted in placing § 87(2)(b) onto a hospital bed. The hospital staff then took over and sedated § 87(2)(b). When asked why he chose that specific tactic, as opposed to some other tactic, to take down § 87(2)(b) PO Polanco stated, "Because he was trying to escape; so you want an escaped prisoner?" PO Polanco also emphasized that § 87(2)(b) was a dangerous individual because he was wanted for a shooting and that he had tried to escape "a bunch of times" while in police custody (BR 13). Det. Roman's statement was generally consistent with PO Polanco's (BR 05). Det. Bennett denied witnessing what occurred inside the triage area because he stayed outside and went to receive treatment for his injury soon after § 87(2)(b) was taken into the triage area (BR 07).

The video of § 87(2)(b) triage area depicts § 87(2)(b) sitting up on the gurney with his hands behind his back and restraints over his upper thighs. § 87(2)(b) is moving his legs and body and seems to be arguing with someone off-screen. § 87(2)(b) then manages to unbuckle the restraint, gets up from the gurney, and walks slowly towards the right side of the screen, presumably towards the person with whom he is speaking. PO Polanco then comes from behind and puts his right forearm over § 87(2)(b)'s neck and pulls him back, bringing him to the floor in a controlled takedown. At the moment in which PO Polanco takes down § 87(2)(b) Det. Roman is in front of § 87(2)(b) and puts his hand on § 87(2)(b)'s chest, as if to hold him back or push him back. When § 87(2)(b) is taken down, he lands on his back and is then quickly turned around (BR 17).

Members of the New York City Police Department will not use chokeholds. A chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air. NYPD Patrol Guide, Section 203-11 (BR 16).

Though § 87(2)(b) was rear-handcuffed and in leg shackles, he managed to get up from the gurney and made statements to Det. Bennett about wanting to fight him. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Squad: _____

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date